

EXHIBIT 306

Highly Confidential - Subject to Further Confidentiality Review

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

IN RE: NATIONAL :
PRESCRIPTION : MDL No. 2804
OPIATE LITIGATION :
----- : Case No.
THIS DOCUMENT RELATES : 1:17-MD-2804
TO ALL CASES : Hon. Dan A. Polster

- - -

Wednesday, February 27, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

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Videotaped deposition of JAMES T. SCHOEN,
held at the Hilton Garden Inn, Perrysburg, Ohio,
commencing at 12:59 p.m., on the above date, before
Carol A. Kirk, Registered Merit Reporter and Notary
Public.

- - -

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	Page 2	Page 4
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	Page 3	Page 5
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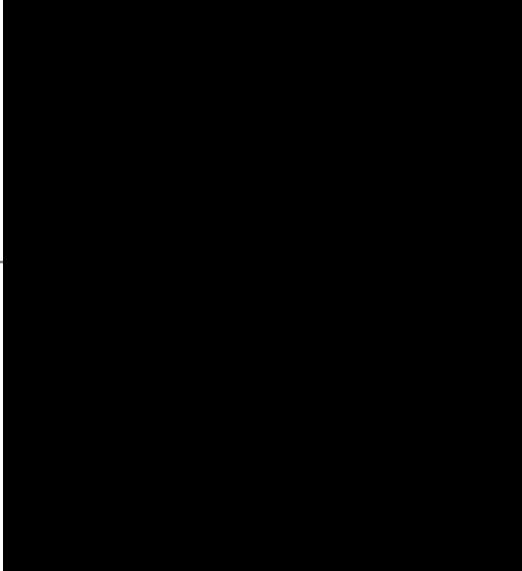
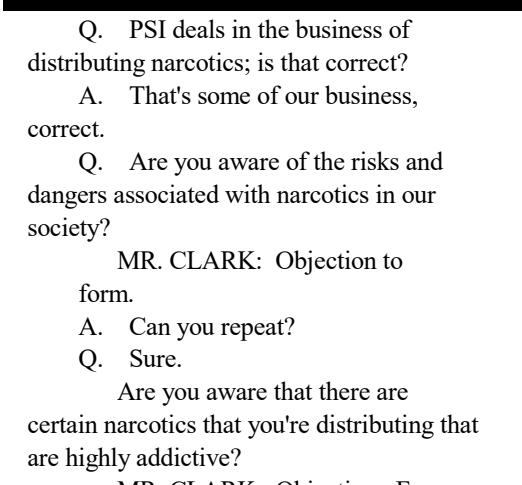
2 (Pages 2 to 5)

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Page 6	Page 8
1 VIDEOTAPED DEPOSITION OF JAMES T. SCHOEN 2 INDEX TO EXHIBITS 3 PSI - J. SCHOEN DESCRIPTION PAGE 4 PSI - J. Schoen 1 DEA Notice of Inspection of 124 Controlled Substances, 5 Bates-stamped PSI-0000077 6 PSI - J. Schoen 2 State of Ohio Board of 142 Pharmacy, Written Responses 7 for Prescription Supply, 8 Inc., Wholesaler/ 9 Manufacturer, Category 10 Three, Wholesale Distributor Inspection, October 25, 2017, Bates-stamped PSI0000007 through 83	1 Prescription Supply. 2 MR. WHITESELL: Jeff 3 Whitesell of Tucker Ellis on behalf 4 of Johnson & Johnson and Janssen. 5 MS. OCHMAN: Patricia Ochman, 6 Jones Day, for Walmart. 7 MS. HELLER-TOIG: Elly 8 Heller-Toig for HBC Services 9 Company from Marcus & Shapira. 10 MS. YANG: Mary Yang with 11 Covington Burling for McKesson. 12 MR. ELKINS: A.J. Elkins, 13 McHugh Fuller Law Group, 14 Plaintiffs. 15 MR. CORNELL: Stephan 16 Cornell, Fox Rothschild, for 17 Prescription Supply. 18 MS. ZERRUSEN: Sandy Zerrusen 19 from Jackson Kelly for 20 AmerisourceBergen. 21 THE VIDEOGRAPHER: The court 22 reporter today is Carol Kirk and 23 will now swear in the witness. 24 ---
Page 7	Page 9
1 --- 2 P R O C E E D I N G S 3 --- 4 THE VIDEOGRAPHER: We are now 5 on the record. My name is Michael 6 Newell and I'm a videographer for 7 Golkow Litigation Services. 8 Today's date is 9 February 27th, 2019, and the time 10 is 12:59 p.m. 11 This video deposition is 12 being held in Perrysburg, Ohio, in 13 the Matter of National Prescription 14 Opiate Litigation for the Northern 15 District of Ohio, Eastern Division. 16 The deponent today is James 17 Schoen. 18 Will counsel please identify 19 themselves. 20 MR. REINS: Lance Reins with 21 McHugh Fuller Law Group on behalf 22 of the Plaintiff. 23 MR. CLARK: Jim Clark with 24 Fox Rothschild on behalf of	1 JAMES T. SCHOEN 2 being by me first duly sworn, as hereinafter 3 certified, deposes and says as follows: 4 EXAMINATION 5 BY MR. REINS: 6 Q. Good afternoon. 7 A. Hi. 8 Q. Could you please tell us your 9 name. 10 A. James T. Schoen. 11 Q. And have you been through a 12 deposition before? 13 A. Years ago with an auto accident. 14 I think I was maybe 18. 15 Q. Got it. The reason I ask is I'm 16 just going to go over some of the ground rules 17 for depositions. Your counsel has probably 18 advised you, but better safe than sorry. 19 So, obviously, I'm going to be 20 taking down -- I'm going to be asking the 21 questions here today. We have a court reporter 22 who types everything that we say. Because of 23 that, if you could please verbalize all your 24 answers, no huh-uhs, um-hmms, or head nods

3 (Pages 6 to 9)

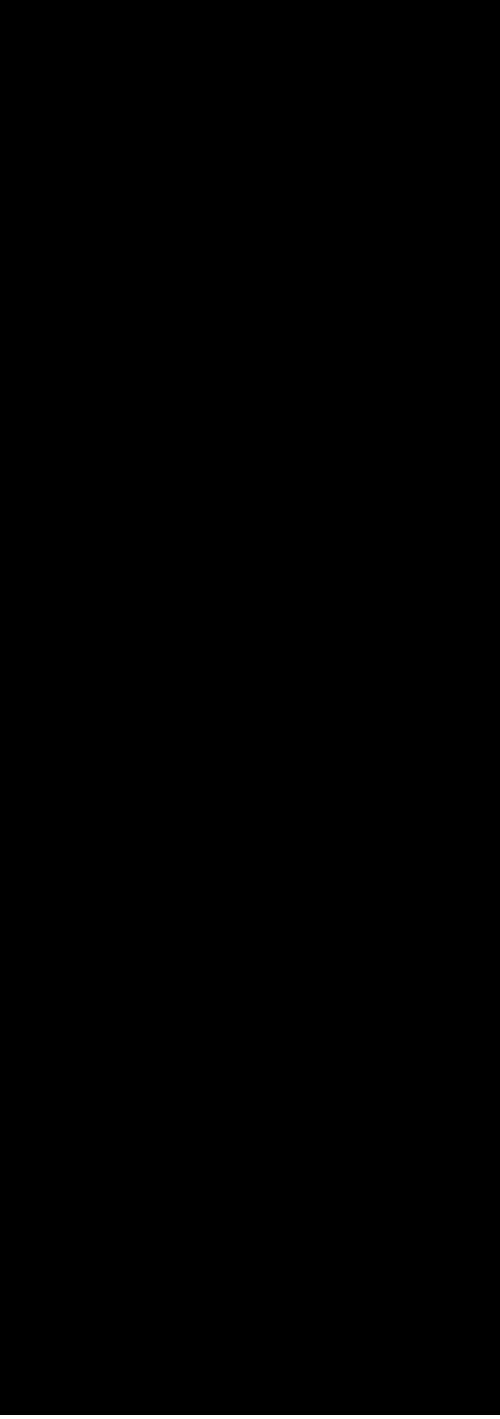
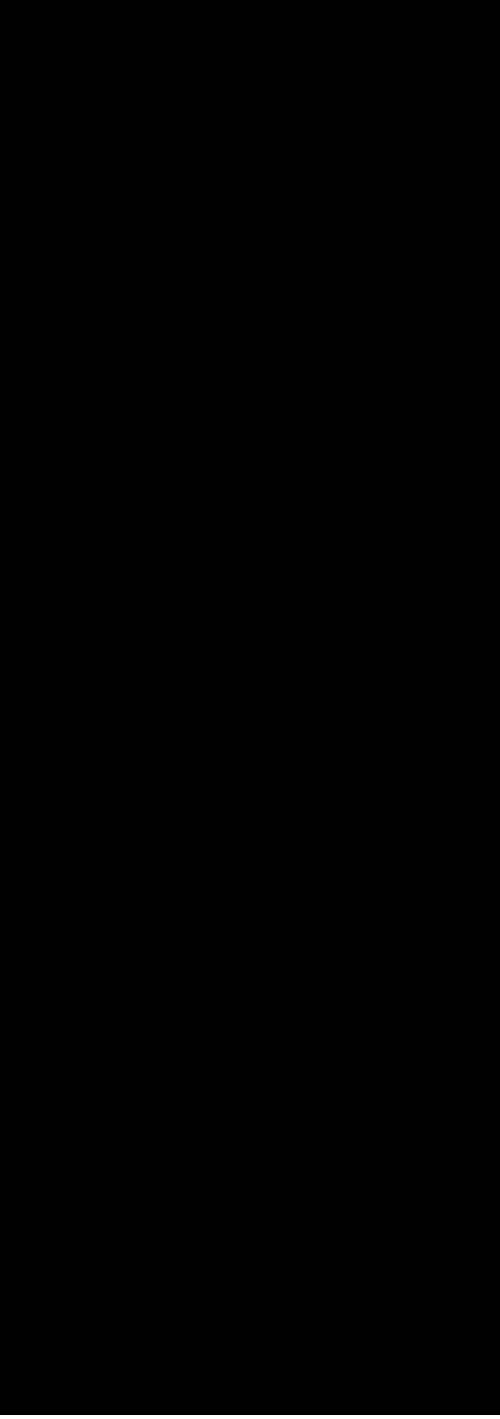
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<p style="text-align: center;">Page 10</p> <p>1 because those can't be taken down, okay?</p> <p>2 A. Okay.</p> <p>3 Q. If you do so, I may say "Is that a</p> <p>4 yes or is that a no," because I'm looking for a</p> <p>5 verbal response. All right?</p> <p>6 A. Okay.</p> <p>7 Q. Please let me finish my question</p> <p>8 before you begin answering. Let me add a caveat</p> <p>9 to that.</p> <p>10 Your counsel is going to object to</p> <p>11 some my questions. So after I finish my</p> <p>12 question, if you could just wait a moment, allow</p> <p>13 him to object, and then you can respond. That</p> <p>14 way we're not talking over one another, okay?</p> <p>15 A. Okay.</p> <p>16 Q. Lastly, if you answer my question,</p> <p>17 I'm going to assume that you are doing two</p> <p>18 things. One, you understand the question, and,</p> <p>19 two, most importantly, you're telling the truth;</p> <p>20 is that fair?</p> <p>21 A. Yes.</p> <p>22 Q. If you don't know something or you</p> <p>23 don't understand my question, just let me know</p> <p>24 and I'll rephrase.</p>	<p style="text-align: center;">Page 12</p> <p>1 Q. Do you know what year he started</p> <p>2 the company?</p> <p>3 A. 1955.</p> <p>4 Q. Your dad is now the president?</p> <p>5 A. Yes.</p> <p>6 Q. His name is?</p> <p>7 A. Thomas G. Schoen.</p> <p>8 Q. And he runs the company along with</p> <p>9 his sister?</p> <p>10 A. Yes.</p> <p>11 Q. And what's her name?</p> <p>12 A. Jacquelyn Harbauer.</p> <p>13 Q. Do you know what her position is?</p> <p>14 A. Secretary.</p> <p>15 Q. How long have you held the</p> <p>16 position as controlled substance manager?</p> <p>17 A. Around 20 years.</p> 
<p style="text-align: center;">Page 11</p> <p>1 A. Okay.</p> <p>2 Q. If you need a break for any</p> <p>3 reason, just let me know. It's not a marathon.</p> <p>4 We'll take a break when you need to, okay?</p> <p>5 A. Fine.</p> <p>6 Q. Can you please tell me what you do</p> <p>7 for a living.</p> <p>8 A. I work at Prescription Supply.</p> <p>9 I'm presently the controlled substance manager.</p> <p>10 Q. And what is Prescription Supply,</p> <p>11 Inc. in the business of doing?</p> <p>12 A. We're a pharmaceutical wholesaler.</p> <p>13 Q. And you distribute or provide</p> <p>14 medications to what type of customers?</p> <p>15 A. Mostly independent pharmacies,</p> <p>16 some doctors, and some outpatient pharmacies</p> <p>17 that are in hospitals.</p> <p>18 Q. And how long have you worked with</p> <p>19 the company?</p> <p>20 A. Since like 1986.</p> <p>21 Q. Was your grandfather the founder?</p> <p>22 A. Yes.</p> <p>23 Q. What was his name?</p> <p>24 A. Clarence J. Schoen.</p>	<p style="text-align: center;">Page 11</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>  <p>Q. PSI deals in the business of distributing narcotics; is that correct?</p> <p>A. That's some of our business, correct.</p> <p>Q. Are you aware of the risks and dangers associated with narcotics in our society?</p> <p>MR. CLARK: Objection to form.</p> <p>A. Can you repeat?</p> <p>Q. Sure.</p> <p>Are you aware that there are certain narcotics that you're distributing that are highly addictive?</p> <p>MR. CLARK: Objection. Form.</p> <p>A. I've heard that.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. What have you heard? 2 MR. CLARK: Objection to 3 form. 4 A. That on some of the labels, it 5 says they can be addictive. 6 Q. Which ones? 7 MR. CLARK: Objection to 8 form. 9 A. I think OxyContin was one and 10 maybe hydrocodone. 11 Q. And your company distributes both 12 of those? 13 MR. CLARK: Objection to 14 form. 15 A. Yes.</p> <p>16 [REDACTED]</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 Q. Would you agree with me, though,</p>	<p style="text-align: right;">Page 16</p> <p>1 addictive nature of oxycodone? 2 MR. CLARK: Objection to 3 form. 4 A. No. 5 Q. Other than the news, have you 6 educated yourself as to the risks and dangers of 7 oxycodone? 8 MR. CLARK: Objection to 9 form. 10 A. Have I -- 11 Q. Educated yourself on what the 12 risks and/or dangers might be. 13 MR. CLARK: Same objection. 14 A. No. 15 MR. REINS: Did you get the 16 answer "I don't know"?" 17 THE COURT REPORTER: Yes. 18 BY MR. REINS: 19 Q. All right. Sir, based on the fact 20 that your company does distribute narcotics 21 which have been certified or identified by the 22 government, are you aware that there's federal 23 regulations governing the distribution of the 24 products that you sell?</p>
<p style="text-align: right;">Page 15</p> <p>1 that we are in the middle of an opioid epidemic 2 and/or crisis right now? 3 MR. CLARK: Objection to 4 form. 5 A. I -- I see that in the news. I've 6 never been affected, but I don't know anybody 7 that has, you know, a problem with addiction. 8 Q. I think -- is Candace your aunt? 9 A. My cousin. 10 Q. Cousin. I'm sorry. She said 11 she's seen it on the news. 12 Have you seen it on the news, that 13 it's a problem? 14 MR. CLARK: Objection to 15 form. 16 A. Have I seen -- yes, I've seen 17 stuff on the news regarding opioids. 18 Q. Have you ever attended any 19 seminars, lectures, or meetings outside of your 20 company regarding the addictive nature of 21 oxycodone? 22 A. No. 23 Q. Have you ever read any of the 24 congressional hearings or reports regarding the</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Yes. 2 Q. Okay. So, for instance, you're 3 aware of the Controlled Substances Act, I would 4 presume? 5 A. I'm aware of it, yes. 6 Q. Okay. Specifically -- 7 specifically, are you aware that distributors of 8 controlled substances and Schedule I or II, the 9 Attorney General shall register an applicant to 10 distribute a controlled substance in Schedule I 11 or II unless he determines that the issuance of 12 such registration is inconsistent with the 13 public interest. 14 In determining the public 15 interest, the following factors shall be 16 considered: Maintenance of effective control 17 against diversion of particular controlled 18 substances into other than legitimate medical, 19 scientific, and industrial channels. 20 Do you agree that PSI has the duty 21 to maintain effective controls against 22 diversion? 23 MR. CLARK: Objection. Form. 24 A. No. The DEA issues us a license.</p>

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<p style="text-align: center;">Page 18</p> <p>1 Q. Yes, sir, and that's fair. But do 2 you agree that your company is responsible for 3 coming up with effective plans to prevent drug 4 diversions of the products that you distribute?</p> <p>5 MR. CLARK: Objection to 6 form.</p> <p>7 A. That's what the law is.</p> <p>8 Q. Yes, sir. And the law is also 9 that any suspicious orders, pursuant to the 10 federal regulations, include orders of unusual 11 size, orders deviating substantially from a 12 normal pattern, and orders of unusual frequency 13 shall be reported, correct?</p> <p>14 MR. CLARK: Objection to 15 form.</p> <p>16 A. That's what the law says.</p> <p>17 Q. Yes, sir. And I believe I asked 18 your dad about this. This is going to be in his 19 deposition when he was taken specifically as the 20 30(b), which means a corporate representative of 21 PSI speaking on behalf of the company.</p> <p>22 And this is going to be on page 59 23 of that deposition, specifically line 11.</p> <p>24 Your father was asked, as the</p>	<p style="text-align: center;">Page 20</p> <p>1 when these were passed in 1970 and '71, 2 respectively.</p> <p>3 MR. CLARK: Same objection.</p> <p>4 Q. Did your father testify honestly 5 and truthfully?</p> <p>6 MR. CLARK: Objection to 7 form. There's a question pending. 8 I don't think he answered the prior</p> 
<p style="text-align: center;">Page 19</p> <p>1 president -- let me restate that -- as the 30(b) 2 representative of PSI:</p> <p>3 "What is your understanding of the 4 shipping requirement? And, quite honestly, it 5 shouldn't be the shipping requirement. It 6 should be the anti-shipping requirement, right?"</p> <p>7 "Answer: That's correct."</p> <p>8 "Okay. And is it your 9 understanding that the shipping requirement 10 means that if we have a suspicious order, we 11 need not to ship it?"</p> <p>12 "Answer: Yes."</p> <p>13 "And that has been the obligation 14 not just upon PSI, but all the distributors, to 15 your understanding, since 1971 when this 16 regulation was passed?"</p> <p>17 Answer on the next page at line 2,</p> <p>18 "Yes."</p> <p>19 You understand as -- you 20 understand that that not only is the law but has 21 been the law since 1971, correct?</p> <p>22 MR. CLARK: Objection to 23 form.</p> <p>24 Q. And I can show you the regulations</p>	<p style="text-align: center;">Page 24</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> 

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12 A. Okay. I go about that by -- a lot
13 of things determine that. How many orders they
14 do per day, how many scripts they fill. They
15 fill out my questionnaire and I go off of that,
16 okay?

17 So I read the questionnaire, okay?
18 And that's basically the basis point of how I
19 determine what they -- you know, what they
20 receive.

21 Q. Okay.

22 A. Okay. And I also, you know,
23 check -- I can check the population around them,
24 you know. They have to be a customer for a

Page 24

1 dispensing more than a certain number of --
2 phentermine is one of them, hydrocodone,
3 oxycodone. Fentanyl is on there, prometh with
4 codeine. Tramadol is on there. Carisoprodol is
5 on there.

6 Q. And you have them fill out this
7 questionnaire when you first start doing
8 business with them?

9 A. It's before we do business -- when
10 they fill out their application, that is filled
11 out if they want -- if they expect to get

12
13

14 Q. Okay.
15 A. So not everybody fills one out.
16 In order to get controls, it must be filled out
17 and completed.

18 Q. Will the questionnaire also
19 have -- will it ask them kind of their -- well,
20 let me just ask it this way: You maintain all
21 these questionnaires for your customers?

22 MR. CLARK: Objection to
23 form.

24 Q. You keep them?

Page 23

1 little while before they get controls.

2 Q. All right. Take that one at a
3 time, if you don't mind. Let's start with the
4 questionnaire.

5 Did you come up with the
6 questionnaire?

7 A. I helped.

8 MR. CLARK: Objection to
9 form.

10 Go ahead.

11 A. I helped with it, yes.

12 Q. Okay. And this questionnaire is
13 going to be asking what types of questions?

14 A. It asks pharmacy information, if
15 they're affiliated with any other pharmacies,
16 how long they've been in business, what are
17 their store hours and what days are they open a
18 week, what is the percentage of controls to
19 non-controls they plan on purchasing, also what
20 they dispense, the amount of cash for controlled
21 substance prescriptions compared to credit
22 cards, insurance, Medicaid.

23 It asks certain questions about
24 certain items, all right? If they plan on

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19 Q. Why not just have unlimited
20 opioids flowing into society? Why have a limit?
21 MR. CLARK: Objection to
22 form.
23 A. That's not the right thing to do.
24 Q. Why?

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1 MR. CLARK: Same objection.
2 A. Because they have to be prescribed
3 for a legitimate purpose and it's -- you know.
4 Q. Let me show you what -- your
5 father's words. This is going to be on page 28
6 of his deposition as a 30(b) rep, line 4.
7 "Tell us, tell the jury why we
8 want to prevent diversion of controlled
9 substances."
10 "Well, as it states, we -- it can
11 be dangerous. People can die. People can have
12 bad effects and they can be abused. None of
13 that is something that we want to happen. We
14 want the good effects, not the bad effects."
15 Do you agree?
16 MR. CLARK: Objection to
17 form.
18 A. I agree that's his opinion.
19 Q. Not yours?
20 MR. CLARK: Same objection.
21 A. I agree it could be dangerous,
22 yes.
23 Q. People can die, right?
24 MR. CLARK: Same objection.

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 Q. But you do know that the law puts 20 the duty on your shoulders as the distributor to 21 ensure that there aren't unusual amounts or 22 frequency of amounts into society, right? 23 MR. CLARK: Objection to 24 form.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 31
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<p style="text-align: center;">Page 34</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: center;">Page 36</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>
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1 that time so that they can put an order in,
2 because they'll be on vacation for a week or so,
3 just so they have the stock.

4 Q. All right. I want to show you a
5 document. So this is going to be PSI
6 30(b)-301-001.

7 You're looking at a letter that
8 was issued to Cardinal September 27th, 2006, and
9 I'll tell you that it's basically been
10 stipulated that all the distributors got a
11 letter such as this, similar to this, and I
12 think your dad and your cousin, Candace, has
13 already testified to that.

14 Do you remember seeing this
15 letter? Not this letter, but obviously a
16 similar letter.

17 MR. CLARK: Objection to
18 form.

19 Q. And you can take a moment to look
20 it over. I'm not trying to rush you.

21 You don't have to read the whole
22 thing.

23 A. I don't recall. I don't recall
24 it, no.

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1 Q. Fair enough.

2 So I do want to talk to you a
3 little bit about kind of some of the things that
4 are brought up in this letter, see if these are
5 concepts that you recall. So we'll talk about
6 the first paragraph, if you don't mind.

7 It says, "This letter is being
8 sent to every commercial entity in the
9 United States registered with the Drug
10 Enforcement Administration to distribute
11 controlled substances."

12 That would certainly be PSI,
13 correct?

14 A. Yes.

15 Q. "The purpose of this letter is to
16 reiterate the responsibilities of controlled
17 substance distributors in view of the
18 prescription drug abuse problem our nation
19 currently faces."

20 Under "Background," it says, "As
21 each of you is undoubtedly aware, the abuse,
22 non-medical use, of controlled prescription
23 drugs is a serious and growing health problem in
24 this country. DEA has an obligation to combat

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<p style="text-align: right;">Page 42</p> <p>1 this problem as one of the agency's core 2 functions is to prevent the diversion of 3 controlled substances into illicit channels."</p> <p>4 You're aware that that's one of 5 their duties and responsibilities, the DEA?</p> <p>6 A. Yes.</p> <p>7 Q. "Congress assigned DEA to carry 8 out this function through enforcement of the 9 Controlled Substance Act and DEA regulations 10 that implement the Act."</p> <p>11 Specifically, on the second page, 12 middle part there, I want to talk to you about 13 where it says, "The DEA regulations require all 14 distributors to report suspicious orders of 15 controlled substances." Specifically, the 16 regulations state in 21 C.F.R. 1301.74(b), "The 17 registrant shall design and operate a system to 18 disclose to the registrant suspicious orders of 19 controlled substances. The registrant shall 20 inform the Field Division Office of the 21 Administration in this area of suspicious orders 22 when discovered by the registrant. Suspicious 23 orders include orders of unusual size, orders 24 deviating substantially from a normal pattern,</p>	<p style="text-align: right;">Page 44</p> <p>1 A. That wouldn't meet -- if there was 2 a suspicious order, I would have sent them 3 information separate from this.</p> <p>4 Q. Separate from that?</p> <p>5 A. That's right, yes. That's 6 correct.</p> <p>7 Q. We'll talk about the report 8 specifically, but why don't you tell me what 9 type of information you would send to the DEA 10 before 2008, when you initiated the -- 11 specifically, the threshold system.</p> <p>12 MR. CLARK: Objection to 13 form.</p> <p>14 Q. What did you send?</p> <p>15 A. Okay. Can you repeat that?</p> <p>16 Q. Sure. Yeah. Your -- Kirk, do you 17 know who Kirk is?</p> <p>18 A. Yes, I do.</p> <p>19 Q. He testified here today he was the 20 IT guy and he would do these reports pursuant to 21 these rules and submit those reports every 22 month.</p> <p>23 A. Yes.</p> <p>24 Q. Okay. As part of the suspicious</p>
<p style="text-align: right;">Page 43</p> <p>1 and orders of unusual frequency."</p> <p>2 Are you aware that your company, 3 PSI, specifically submitted reports in writing 4 every month from approximately 1997 to 2013?</p> <p>5 MR. CLARK: Objection to 6 form.</p> <p>7 A. There was a variance report, yes. 8 I did look at that too.</p> <p>9 Q. Okay. And you're aware that the 10 law requires a suspicious order report be 11 submitted?</p> <p>12 A. Yes.</p> <p>13 MR. CLARK: Objection. Form.</p> <p>14 Q. And that qualified, pursuant to 15 PSI, as meeting your responsibilities under the 16 federal law, specifically the one that you're 17 looking at right here in that regard; fair to 18 say?</p> <p>19 MR. CLARK: Objection to 20 form.</p> <p>21 A. No, I don't agree with that. That 22 didn't meet suspicious order monitoring.</p> <p>23 Q. Okay. You had a different 24 monitoring system?</p>	<p style="text-align: right;">Page 45</p> <p>1 order monitoring requirement under the federal 2 regulations, but you're saying no --</p> <p>3 MR. CLARK: Objection to 4 form. Misstates prior testimony.</p> <p>5 Q. You're saying no, he wasn't doing 6 it pursuant to the regulations; is that right?</p> <p>7 MR. CLARK: Same objection.</p> <p>8 A. No. No. These were sent, but 9 this didn't -- just because this was sent 10 doesn't constitute those as suspicious orders. 11 There could have been a suspicious order that 12 wouldn't show up on that report.</p> <p>13 Q. That wouldn't have shown up?</p> <p>14 A. Yeah. It's possible, yes.</p> <p>15 Q. For example?</p> <p>16 MR. CLARK: Objection to 17 form.</p> <p>18 A. I -- I -- I never had one, but, 19 you know, it would be possible. This report was 20 a variance report which just said, you know, if 21 somebody bought more than what the average was 22 we sold per month.</p> <p>23 Q. All right. So you did not -- your 24 testimony here today is that report was not in</p>

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<p style="text-align: right;">Page 46</p> <p>1 fulfillment of the duties and responsibilities 2 of the Code of Federal Regulations, correct? 3 MR. CLARK: Objection to 4 form. 5 A. I can't answer that. I don't 6 know -- I mean, it requires more than that. 7 MR. CLARK: Objection. Calls 8 for legal conclusion. 9 Q. You said, "We sent" -- "I sent 10 other reports." What other reports did you 11 send? 12 MR. CLARK: Objection. 13 Misstates his testimony. 14 A. Yeah. I didn't say I sent 15 reports. 16 Q. All right. What did your company 17 do, PSI, in regards to -- well, first of all, 18 let's get on the same page. What's a suspicious 19 order? How do you define a suspicious order? 20 A. How do I define -- a suspicious 21 order to me is if I contact the customer after 22 an order goes on hold that I'm curious about, an 23 order of interest, and I don't get an answer 24 that I believe I can be comfortable with, then</p>	<p style="text-align: right;">Page 48</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p>Q. Yeah, what defines as a -- well, let me say this: Can you and I agree that the law defines what a suspicious order is, right? MR. CLARK: Objection to form. A. That's what the law is, yes. Q. Unusual size, orders deviating substantially from a normal pattern, an order of unusual frequency. That is a suspicious order, correct? MR. CLARK: Objection to form.</p>
<p style="text-align: right;">Page 47</p> <p>1 that is a suspicious order. 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">Page 49</p> <p>1 A. According to the law, correct. 2 Q. According to the law? 3 A. Yes. 4 Q. Do you have a different 5 understanding in PSI? 6 A. No. I go -- do I have a different 7 understanding? No. 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>

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14 Q. Okay. Let's go beyond Kirk.
15 Let's go beyond his testimony. Let's talk about
16 the company's policies and procedures.

17 Are you aware there's policies and
18 procedures?

19 MR. CLARK: Objection to
20 form.

21 A. Yes.

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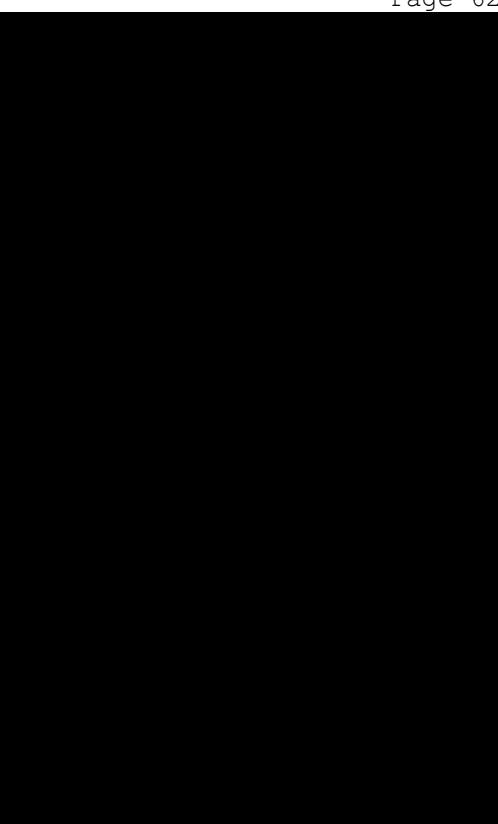
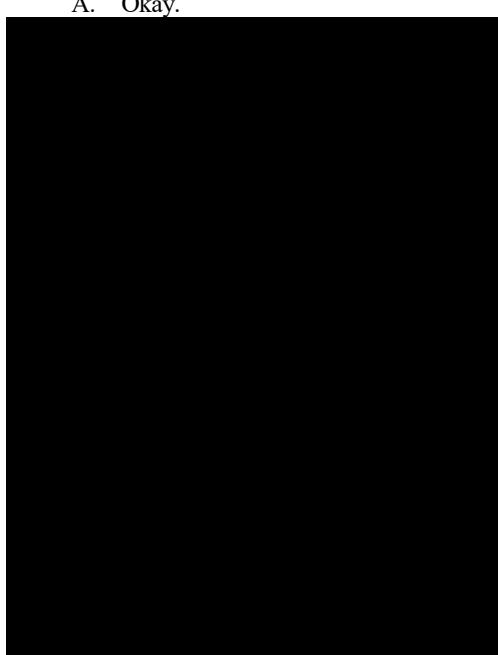
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 62 	Page 64 
Page 63 1 Q. That's okay. I'll ask it 2 differently. 3 Look at page 3, if you don't mind, 4 on the DEA letter. 5 A. Okay. 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	

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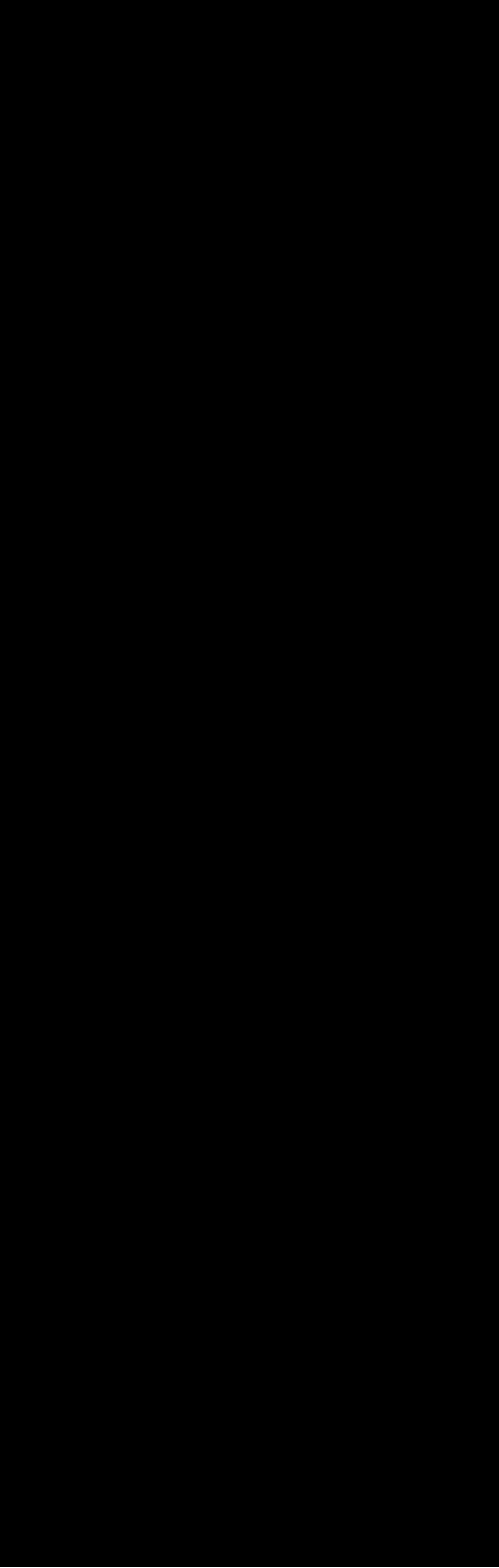
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	<p>Page 80</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>Page 81</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>

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2	pharmacy?	2
3	A. Yes.	3
4	Q. And you can see the screen in	4
5	front of you it may be helpful because this is	5
6	small.	6
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1 Well, before we do that, you
2 understand we talked in the very beginning of
3 this deposition about you don't want to ship a
4 suspicious order.

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15 Q. Let me --
16 MR. CLARK: Were you done
17 answering?
18 MR. REINS: I think he was
19 done.
20 THE WITNESS: Yes.
21 BY MR. REINS
22 Q. Let's look at this one, and this
23 may be what you're talking about. Again, I'm
24 not here to trick you or anything.

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19 Q. Okay.
20 A. I know I went to the store to talk
21 to him, spoke to him on the phone a few times.
22 Q. All right. Moving along. Let's
23 go back to the policy dealing with inventory
24 controls.

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

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1 A. Zero.
2 Q. Zero. All right.
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5 Q. All right. Sitting here today,
6 can you testify under oath that you recall how
7 many times you refused to raise a threshold
8 since 2008?

9 MR. CLARK: Objection to
10 form.

11 Q. If you know.

12 A. I have no idea.

13 Q. Got it.

14 Can you tell me -- now, let's say
15 you do that analysis, okay, and then you go --
16 well, let's just say this: You do that
17 analysis. When if ever -- because after 2013
18 you all stopped sending those forms monthly.

19 So when, if ever, after 2013, when
20 those forms stopped, would you report a
21 quote/unquote "suspicious order"? Since then,
22 how many times?

23 MR. CLARK: Objection to
24 form.

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1 substances.
 2 "The regulation also requires that
 3 the registrant inform the local DEA division
 4 office of suspicious orders when discovered by
 5 the registrant."
 6 Is that what you understand the
 7 rules to include?
 8 MR. CLARK: Objection to
 9 form.
 10 Q. That when you get a suspicious
 11 order, you should let them know when you receive
 12 it, correct?
 13 MR. CLARK: Objection to
 14 form.
 15 A. I've heard different things with
 16 that from DEA.
 17 Q. You have?
 18 A. Yes.
 19 Q. What else have you heard?
 20 A. I went to a wholesaler -- DEA
 21 wholesaler meeting -- I believe it was in
 22 Indianapolis -- where the DEA has
 23 representatives there and they talk to the
 24 wholesalers and keep us updated on the laws and

1
 2 Q. Sure. All right. We're going to
 3 talk about another DEA letter.
 4 All right. And this is after the
 5 other one. This is going to be PSI
 6 30(b)-301-001. This is dated December 27th,
 7 2007. Again, this letter was sent to all the
 8 distributors.
 9 It says, "This letter is being
 10 sent to every entity in the United States
 11 registered with the Drug Enforcement
 12 Administration, DEA, to manufacture or
 13 distribute controlled substances.
 14 "The purpose of this letter is to
 15 reiterate the responsibilities of the controlled
 16 substance manufacturers and distributors to
 17 inform DEA of suspicious orders in accordance
 18 with 21 C.F.R. 1301.74(b).
 19 "In addition to and not in lieu of
 20 the general requirement of 21 USC 23 that
 21 managers and distributors maintain effective
 22 controls against diversion, DEA regulations
 23 require all manufacturers and distributors to
 24 report suspicious orders of controlled

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1 regulations.
 2 One of the attorneys that works
 3 for DEA had said that do our due diligence first
 4 and then, you know, make that judgment. So she
 5 was an attorney that worked for DEA.
 6 Q. "Make that judgment," meaning
 7 what?
 8 A. On if it's a suspicious order or
 9 not.
 10 Q. Okay. And if you think it's a
 11 suspicious order, you should report it
 12 immediately, correct?
 13 A. Yes.
 14 MR. CLARK: Objection to
 15 form.
 16 Q. Okay. All right.
 17 "Filing a monthly report of
 18 completed transactions ergo excessive purchase
 19 report or high unit purchases does not meet the
 20 regulatory requirement to report suspicious
 21 orders."
 22 Sitting here today, you're aware
 23 that the reporting you guys did from 2000 -- I'm
 24 sorry -- from 1997 to 2013, that that monthly

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1 report that Kirk did, that was after those had 2 all been shipped; you're aware of that, right? 3 MR. CLARK: Objection to 4 form. 5 A. Yes, on the report, correct. 6 Q. "Registrants are reminded that 7 their responsibility does not end merely with 8 the filing of a suspicious order report. 9 Registrants must conduct an independent analysis 10 of suspicious orders prior to completing a sale 11 to determine whether the controlled substances 12 are likely to be diverted from legitimate 13 channels." 14 15 16 17 18 19 20 21 22 23 24	1 Q. Just that you acknowledge that 2 they're there? 3 MR. CLARK: Same objection. 4 A. They always give me this form and 5 I always sign it, okay, when they come in, all 6 right. 7 Q. Okay. 8 A. You know, I have no reason not to 9 sign it. They're there for an inspection. I'm 10 fine with that. 11 Q. Okay. 12 A. I'm not sure why they give you 13 this paper. I'm not with DEA. 14 Q. Fair enough. Can I see it back if 15 you don't mind. We'll just mark that. 16 - - - 17 (PSI - J. Schoen Exhibit 1 marked.) 18 - - - 19 20 21 22 23 24
1 2 3 4 5 6 Q. Okay. All right. I'll take that 7 back from you. 8 I've got a document here, and I'm 9 sorry, I don't have extra copies. I just don't 10 know what it is. We'll make it Plaintiffs' 11 Exhibit Number 1, I guess. I haven't been 12 marking a bunch because we've used the same 13 documents. 14 So I'll show it to your attorney 15 first, if you don't mind, and then I'm just 16 going to have you identify what that is. 17 A. It's a DEA inspection. 18 Q. Okay. And you're signing off that 19 you're aware that there's an inspection, I 20 guess, in the building? Strike that. 21 What is the purpose of this form, 22 if you know? 23 MR. CLARK: Objection to 24 form.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24

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	Page 142		Page 144
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8	MR. REINS: Mark that as	8	
9	Plaintiffs' Exhibit Number 2.	9	
10	---	10	
11	(PSI - J. Schoen Exhibit 2 marked.)	11	
12	---	12	
13	MR. CLARK: Are we continuing	13	
14	from Kirk or are these new?	14	
15	MR. REINS: They're new, but	15	
16	I'll tell you what I've done here.	16	
17	I've gotten really revolutionary.	17	
18	I've identified a number of the	18	
19	documents that have been exhibits	19	
20	in other depos by Bates numbers so	20	
21	we know what they are, but I	21	
22	haven't attached them all again	22	
23	because, frankly, I have one copy	23	
24	left.	24	
	Page 143		
1	MR. CLARK: That's fine.	1	
2	MR. REINS: Okay.	2	
3	THE WITNESS: Are we done	3	
4	with this, then?	4	
5	MR. REINS: Yes, sir, we are.	5	
6	And honestly, we're going to take a	6	
7	quick break because I may be done.	7	
8	THE VIDEOGRAPHER: We're	8	
9	going off the record at 3:04.	9	
10	(Recess taken.)	10	
11	THE VIDEOGRAPHER: We're back	11	
12	on the record at 3:14.	12	
13	MR. REINS: I have no more	13	
14	questions.	14	
15	---	15	
16	REDIRECT EXAMINATION	16	
17	BY MR. CLARK:	17	
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MR. REINS: Gotcha.
 I have no more questions.
 Thanks for your time.
 MR. CLARK: Nothing further.

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1 THE VIDEOGRAPHER: We're
 2 going off the record at 3:20 p.m.
 3 (Signature not waived.)
 4 ---
 5 Thereupon, at 3:20 p.m., on Wednesday,
 6 February 27, 2019, the deposition was concluded.
 7 ---

24

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1 CERTIFICATE
 2 STATE OF OHIO :
 3 SS:
 4 COUNTY OF _____:
 5 I, JAMES T. SCHOEN, do hereby certify that I
 6 have read the foregoing transcript of my
 7 cross-examination given on February 27, 2019; that
 8 together with the correction page attached hereto
 9 noting changes in form or substance, if any, it is
 10 true and correct.

11
12
13
14
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16
17
18
19
20

JAMES T. SCHOEN

12
 13 I do hereby certify that the foregoing
 14 transcript of the cross-examination of JAMES T. SCHOEN
 15 was submitted to the witness for reading and signing;
 16 that after he had stated to the undersigned Notary
 17 Public that he had read and examined his
 18 cross-examination, he signed the same in my presence
 19 on the _____ day of _____, 2019.

21 NOTARY PUBLIC - STATE OF OHIO
 22
 23 My Commission Expires:
 24 _____, _____.

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1 CERTIFICATE
 2 STATE OF OHIO :
 3 SS:
 4 COUNTY OF FRANKLIN :
 5 I, Carol A. Kirk, a Registered Merit
 6 Reporter and Notary Public in and for the State of
 7 Ohio, duly commissioned and qualified, do hereby
 8 certify that the within-named JAMES T. SCHOEN was by
 9 me first duly sworn to testify to the truth, the whole
 10 truth, and nothing but the truth in the cause
 11 aforesaid; that the deposition then given by him was
 12 by me reduced to stenotype in the presence of said
 13 witness; that the foregoing is a true and correct
 14 transcript of the deposition so given by him; that the
 15 deposition was taken at the time and place in the
 16 caption specified and was completed without
 17 adjournment; and that I am in no way related to or
 18 employed by any attorney or party hereto or
 19 financially interested in the action; and I am not,
 20 nor is the court reporting firm with which I am
 21 affiliated, under a contract as defined in Civil Rule
 22 28(D).

13
 14 IN WITNESS WHEREOF, I have hereunto set my
 15 hand and affixed my seal of office at Columbus, Ohio
 16 on this 4th day of March 2019.

15
 16
 17
 18
 19 CAROL A. KIRK, RMR
 20 NOTARY PUBLIC - STATE OF OHIO
 21 My Commission Expires: April 9, 2022.
 22 ---
 23
 24

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1 DEPOSITION ERRATA SHEET
2 I, JAMES T. SCHOEN, have read the transcript
3 of my deposition taken on the 27th day of February
4 2019, or the same has been read to me. I request that
the following changes be entered upon the record for
the reasons so indicated. I have signed the signature
page and authorize you to attach the same to the
5 original transcript.

6 Page Line Correction or Change and Reason:

7 _____
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9 _____
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15 _____
16 _____
17 _____
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22 _____
23 _____
24 Date _____ Signature _____